

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

COLONY INSURANCE COMPANY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.: 3:07-CV-01044-TFM
	)	
FLOYD'S PROFESSIONAL TREE	)	
SERVICE, DUSTIN A. FLOYD, and	)	
JUNE C. BRAND,	)	
	)	
Defendant.	)	

**DEFENDANTS FLOYD'S PROFESSIONAL TREE SERVICE  
AND DUSTIN A. FLOYD'S ANSWER TO PLAINTIFF AMEND COMPLAINT**

COME NOW the Defendants Floyd's Professional Tree Service and Dustin A. Floyd, by and through undersigned counsel, and in response to the Plaintiff's Amended Complaint would state as follows:

1. The Defendants are unable to admit or deny the allegations contained in paragraph one of the Plaintiff's Amended Complaint. Therefore the Defendants deny the allegations contained in paragraph one of the Plaintiff's Amended Complaint and demand strict proof thereof.
2. The Defendants deny the allegations contained in paragraph two of the Plaintiff's Amended Complaint and demand strict proof thereof.
3. The Defendants admit the allegations contained in paragraph three of the Plaintiff's Amended Complaint and demand strict proof thereof.
4. The Defendants admit the allegations contained in paragraph four of the Plaintiff's Amended Complaint.
5. The Defendants are unable to admit or deny the allegations contained in paragraph five of the Plaintiff's Amended Complaint. Therefore the Defendants deny the allegations contained in paragraph five of the Plaintiff's Amended Complaint and demand strict proof thereof.
6. The Defendants deny the allegations contained in paragraph six of the Plaintiff's Amended Complaint and demand strict proof thereof.

7. The Defendants admit the allegations contained in paragraph seven of the Plaintiff's Amended Complaint.
8. The Defendants admit the allegations contained in paragraph eight of the Plaintiff's Amended Complaint.
9. The Defendants admit the allegations contained in paragraph nine of the Plaintiff's Amended Complaint.
10. The Defendants deny the allegations contained in paragraph ten of the Plaintiff's Amended Complaint and demand strict proof thereof.
11. The Defendants deny the allegations contained in paragraph eleven of the Plaintiff's Amended Complaint and demand strict proof thereof.
12. The Defendants deny the allegations contained in paragraph twelve of the Plaintiff's Amended Complaint and demand strict proof thereof.
13. The Defendants deny the allegations contained in paragraph thirteen of the Plaintiff's Amended Complaint and demand strict proof thereof.
14. The Defendants deny the allegations contained in paragraph fourteen of the Plaintiff's Amended Complaint and demand strict proof thereof.
15. The Defendants deny the allegations contained in paragraph fifteen of the Plaintiff's Amended Complaint and demand strict proof thereof.
16. The Defendants deny the allegations contained in paragraph sixteen of the Plaintiff's Amended Complaint and demand strict proof thereof.
17. The Defendants deny the allegations contained in paragraph seventeen of the Plaintiff's Amended Complaint and demand strict proof thereof.

#### **AFFIRMATIVE DEFENSES**

1. The Defendants assert as an affirmative defense of accord and satisfaction.
2. Some or all of the Plaintiff's claims and causes of action against the Defendants are barred, in whole or in part, by the doctrine of waiver and/or estoppel.

3. Some or all of the Plaintiff's claims and causes of action against the Defendants are barred, in whole or in part, by the doctrine of laches.
4. Some or all of the Plaintiff's claims and causes of action against the Defendants are barred, in whole or in part, by the doctrine of unclean hands.
5. Some or all of the Plaintiff's claims and causes of action against the Defendants are barred, in whole or in part, by the doctrine of ratification.
6. The Defendants reserve the right to plead such other defenses as may become apparent or available during the course of litigation.

Respectfully Submitted,

/s/ Donald R. Harrison

Donald R. Harrison (HAR 096)

Attorney for Defendants

Floyd's Professional Tree Services &

Dustin A. Floyd

OF COUNSEL:

Donald R. Harrison

Attorney at Law

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Dadeville, Alabama 36853

256-825-7393

256-825-7318 Fax

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing upon the following persons by means of delivery shown below and to the location designated, properly addressed and delivery charges prepaid on this the 14<sup>th</sup> day of April, 2008, viz:

Hon. Blake Oliver  
Adams, Umbach, Davidson & White  
Post Office Box 2069  
Opelika, Alabama 36803

Hon. Derrick Blythe  
126 Marshall Street  
Alexander City, Alabama 35010

☐ U.S. MAIL      ☐ HAND DELIVERY      ☐ FACSIMILE      ☐ E-FILE

/s/ Donald R. Harrison  
Of Counsel